

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2007-0010

Mandatory Minimum Penalties

For

Violations of Waste Discharge Requirements Order No. R1-2000-19
NPDES No. CA0022781
WDID No. 1B83147OHUM

In the Matter of

REDWAY COMMUNITY SERVICES DISTRICT
WASTEWATER TREATMENT FACILITY

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from the Redway Community Services District (hereinafter Discharger) a request for a hearing in the matter of mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i) for failure to meet effluent limitations as required by Waste Discharge Requirements Order No. R1-2000-19, and its associated monitoring and reporting programs, and having received the Discharger's request for the opportunity to implement a Compliance Project in lieu of the penalty prescribed, the Regional Water Board finds the following:

1. The Discharger owns and operates the Redway CSD wastewater treatment facility that serves the sewered portions of the district. Wastewater receives secondary treatment and is discharged to the South Fork of the Eel River during the winter high-flow season. During the summer dry period, wastewater is discharged to upland percolation ponds.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. R1-2000-19 for the Discharger on February 24, 2000. The Order serves as National Pollutant Discharge Elimination System (NPDES) Permit No. CA0022781.
3. This Order covers violations of effluent limitations that occurred during the periods of discharge to receiving waters between February 24, 2000 and May 31, 2006. The details of these violations are presented in Finding 13 of this Order. Violations in Finding 13 are subject to the mandatory minimum penalties provision contained in California Water Code section 13385, subdivisions (h) through (l).
4. Water Code section 13385, subdivision (h)(1) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation of an NPDES permit effluent limitation.

5. Water Code section 13385, subdivision (h)(2) states that a serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the effluent limitations for a Group I pollutant, as specified in Appendix A to section 123.45 of title 40 Code of Federal Regulations, by 40-percent or more, or for a Group II pollutant, as specified in Appendix A to section 123.45 of title 40 Code of Federal Regulations, by 20 percent or more.
6. Water Code section 13385, subdivision (i)(1) requires the Regional Water Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:
 - a. Exceeds a waste discharge requirement effluent limitation.
 - b. Fails to file a report pursuant to section 13260.
 - c. Files an incomplete report pursuant to section 13260.
 - d. Exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations under section 13385, subdivision (i)(1) are referred to as chronic violations in this Order.

7. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy addresses, among other enforcement issues, issues related to assessing mandatory minimum penalties.
8. Water Code section 13385, subdivision (k)(1) provides that the Regional Water Board may elect to allow all or a portion of mandatory minimum penalties imposed under section 13385, subdivisions (h) or (i) against a Publicly Owned Treatment Works serving an eligible small community to be directed to a compliance project (CP) in accordance with Section X of the Enforcement Policy of the State Water Board. This Order includes conditions regarding CPs as specified in the Enforcement Policy.
9. For the purpose of compliance determinations, the 30-day average is equivalent to the monthly average, which is defined as the arithmetic mean of all daily determinations made during a calendar month. Where less than daily sampling is required, the average shall be determined by the sum of all the measured daily discharges divided by the number of days during the calendar month when the measurements were made. If only one sample is collected during that period of time, the value of the single sample shall constitute the monthly average.

10. For the purpose of compliance determinations, the 7-day average is equivalent to the weekly average, which is defined as the arithmetic mean of all daily determinations made during a calendar week, Sunday to Saturday. Where less than daily sampling is required, the average shall be determined by the sum of all the measured daily discharges divided by the number of days during the calendar week when the measurements were made. If only one sample is collected during that period of time, the value of the single sample shall constitute the weekly average.
11. Portions of Order No. R1-2000-19 that are subject to mandatory minimum penalties include the following effluent limitations numbered B.1 and B.4:

B. EFFLUENT LIMITATIONS

1. Representative sample of the discharge must not contain constituents in excess of the following limits:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average^a</u>	<u>Weekly Average^b</u>	<u>Daily Maximum</u>
Suspended Solids	mg/l	30	45	60
	lb/day	48	71	95
Settleable Solids	ml/l	0.1		0.2
Coliform (Total) Organisms	MPN/100 ml	23		230

4. The arithmetic mean of the BOD (20°C, 5-day) and Suspended Solids values by weight for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values, by weight, for influent samples collected at approximately the same time during the same period (85 percent removal).
12. The Enforcement Policy states that for the purpose of determining serious violations, suspended solids, and settleable solids are identified as Group I pollutants in Title 40 Code of Federal Regulations, section 123.45, Appendix A. Total Coliform is neither a Group I nor a Group II pollutant; therefore, exceedances of effluent limitations for total coliform bacteria do not count as serious violations.

^a The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days.

^b The arithmetic mean of the values for effluent samples collected in period of seven consecutive days.

13. According to monitoring reports submitted by the Discharger for the period from February 2000, to May, 2006, the Discharger has eight serious violations in accordance with Water Code section 13385, subdivision (h) and no chronic violations in accordance with Water Code section 13385, subdivision (i)(1). The mandatory minimum penalty amount for those violations is \$18,000 as shown in the following table:

**Effluent Limitation Exceedances
February 24, 2000 to May 31, 2006**

Date	Description of Violation	Reported Value	Limits	Violation Type	Mandatory Minimum Penalty
11-09-00	Suspended Solids Daily Maximum	160 mg/l	60 mg/l	Serious	\$ 3,000
11-09-00	Suspended Solids Monthly Average	160 mg/l	30 mg/l	Serious	\$ 3,000
11-09-00	Suspended Solids Weekly Maximum	160 mg/l	45 mg/l	Serious	\$ 3,000
11-09-00	Suspended Solids % Removal	62%	85%	Serious	\$ 3,000
03-01-01	Settleable Solids Daily Maximum	1.5 ml/l	0.2 ml/l	Serious	\$ 3,000
03-31-01	Settleable Solids 30-Day Average	0.45 ml/l	0.1 ml/l	Serious	\$ 3,000
01-23-03	Total Coliform Daily Maximum	500 MPN	230 MPN	1 st Chronic	\$ 0
10-09-03	Total Coliform Daily Maximum	900 MPN	230 MPN	1 st Chronic	\$ 0
				Total	\$ 18,000

14. The total amount of mandatory minimum penalties for serious and chronic violations occurring during the period February 24, 2000, through May 31, 2006 is \$18,000.
15. On August 22, 2006, the Executive Officer issued Administrative Civil Liability Complaint(ACLC) No. R1-2006-0093, assessing a mandatory minimum penalty of \$18,000 for effluent violations as described in the table above. The ACLC requested payment of \$10,000 to the State Water Pollution Cleanup and Abatement Account (SWPCAA) with the remainder to be permanently suspended upon completion of a CP. Subsequent correspondence from the Discharger contained a proposal to conduct a CP, as described in Finding 16, and requested that none of the penalty amount be paid into the SWPCAA. The Regional Water Board finds that a minimum payment of \$4,000 is necessary to cover administrative costs of preparing the ACLC and Order, holding a public hearing, and monitoring the progress and completion of the CP.

16. The proposed CP is to convert an existing unused clarifier to a sludge thickener. This improvement will reduce the potential for solids carryover into the final effluent and reduce or eliminate solids and coliform violations. The total cost of the project is estimated to be in excess of \$98,000.

Specific actions will include installing piping, pumps, a flow meter, level sensor, decanter assembly, and reconfiguration of the existing waste activated sludge pumping system.

Design of the project is scheduled to be completed by March 30, 2007, with construction completed by November 21, 2007.

17. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on March 15, 2007, at the Wharfinger Building, 1 Marina Way, Eureka, California. The documents for the agenda item were provided to the Discharger prior to the hearing and the Discharger was given the opportunity to testify and present evidence. The public was given an opportunity to comment.
18. At the hearing, the Regional Water Board considered whether to affirm, reject or modify the proposed Administrative Civil Liability Order and any other action appropriate as a result of the hearing.
19. The Regional Water Board finds that the CP, as proposed, meets the criteria established in the Enforcement Policy.
20. The issuance of this Order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, §§ 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).
21. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Resources Control Board within thirty days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED pursuant to Water Code section 13385 that:

1. The Discharger shall be assessed the mandatory minimum penalty in the amount of \$18,000. The Discharger shall pay the sum of \$4,000 to the State Water Pollution Cleanup and Abatement Account to cover a portion of staff costs. The remaining sum of \$14,000 is eligible to be permanently suspended upon satisfactory completion of the CP, as described in Finding 16 of this Order. The CP meets the criteria established in the State Water Resources Control Board's Water Quality Enforcement Policy.

2. The Discharger shall submit reports describing progress in completing the CP as follows:

DATE	TASK
April 15, 2007	Submit a summary of the completed design and include the scheduled date for construction commencement.
December 31, 2007	The project should be completed. Prepare a final report certifying completion of the CP and an overall evaluation showing that the CP achieved its intended objectives and goals. Include a post project accounting of all expenditures with proof of payment.

3. If, after being given written justification from the Discharger, the Executive Officer determines that a delay in the CP implementation schedule was beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task of the CP will be completed.
4. The penalty amount of \$14,000 shall be permanently suspended if the Executive Officer determines that the Discharger completes the CP and provides the Regional Water Board with the scheduled progress reports toward completion of the CP and the final report as described in paragraph 2 above.
5. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with the terms of the suspended penalty provisions above, as well as the authority to assess additional penalties for other violations of the Discharger's Waste Discharge Requirements.

Certification

I, Catherine E. Kuhlman, Executive Officer,
do hereby certify that the foregoing is a full, true,
and correct copy of an Order adopted by the
California Regional Water Quality Control Board-
North Coast Region on March 15, 2007.

Catherine E. Kuhlman
Executive Officer